

1501 Everett Ave.  
Oakland, CA 94602  
July 20, 2011

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Cliff Congo  
Petitions Attorney  
Mail Stop Petitions  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

JUL 25 2011

OFFICE OF PETITIONS

Dear Mr. Congo:

This is in response to the letter to me of Mr. Anthony Knight who directed me to you.

Before commencing, I need to say “thank you “ for you time over the telephone. Despite repeated attempt, we did finally make phone contact, but that was while I was in NYC attending to a relative recovering from surgery. The Roosevelt environment proved to be a busy and nosy space, so it was hard to hear on both ends. I am sorry if the conversation was difficult for you, and it is too bad that the phone system failed as I was unable to retrieve the phone message you left for me. Regardless, I attempt to answer the two questions stated on page 2 of Mr. Knight’s letter.

1) The first question asks the name of the contact party responsible. The answer is simple; it was Pillsbury Winthrop Shaw Pittman, LLP. As I understood it, responsibility for informing me of the status of USP 5,420,107 was with Pillsbury et al. You have the records at hand and you can see that patent was originally handled by Mr. Patrick Bengtsson of Limbach & Limbach. As I understand it, that firm merged with, or was subsumed by Pillsbury Winthrop, that was again merged with, subsumed by, or restructured as Pillsbury Winthrop Shaw, and then as Pillsbury Winthrop Shaw Pittman LLP. Because I had been in contact with Pillsbury et al in the past, I assumed that I would be contacted by them again in the future concerning USP 5,420,107. Mr. Congo, you have access to the record and you should be able to see and verify that the address for fee purposes in the USPTO database was “PILLSBURY WINTHROP SHAW PITTMEN, LLP” (copy enclosed).

In Mr. Knight’s letter he refers to the copy of an e-mail message from Karyn F. Massic (sic, Massie, copy enclosed). That e-mail message dealt with a subsequent patent application (6,743,821 “GLYCEROL-LACTATE ESTERS FOR USE AS AND ENERGY SUPPLEMENT DURING EXERCISE”) (copy enclosed). In an attempt to secure that patent, I spent large sums of money with them, only to be regularly be reassigned to yet another junior partner. Yes, I got frustrated, dismissed them from application 10158584, and hired another attorney who marched the application right through.

In Mr. Knight’s letter he asserts that the message is not specific with regard to USP 5,420,107. With all due respect, it is clear that the message is specific about USP 5,420,107 that was unmentioned. The message was specifically about Application Number 10158584 that was to become USP 6,743,821. In the message there was no mention of USP 5,420,107 and the USPTO database continued to show PILLSBURY WINTHROP SHAW PITTMEN, LLP as the contact address.

2) The second question asks about evidence showing that the present patent (5,420,107 assumed) was entered into a tracking system for paying fees. The answer is there is no evidence because the contact address was not changed, neither by me nor by Pillsbury Winthrop Shaw Pittman, LLP. With all due respect, I cannot provide evidence for something that did not occur. For this, I rely on the USPTO database.

Mr. Congo, as an average citizen I reiterate an earlier plea. The fact that Patent 5,420,107 was issued to me is a source of pride. As well, I do earn a modicum of royalties from its use by CytoSport, Inc. that uses my invention in CytoMax. In no sense did I decide to "abandon" the patent on my invention. It is regrettable that I had a dispute with a large and powerful law firm whose response was to abandon me. For that reason, I seek protection from you and your colleagues in the USPTO.

Mr. Congo, I know that our phone conversation was difficult because of background noise, but I understood you to say that my statements would be considered. To reiterate, my statements have been and remain complete and truthful.

In closing, I thank you for your efforts in this matter

Sincerely,

A handwritten signature in black ink, appearing to read "George A. Brooks".

George A. Brooks, Ph.D.

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Patent Bibliographic Data		07/16/2010 01:23 PM		
Patent Number:	5420107	Application Number:	08279829	
Issue Date:	05/30/1995	Filing Date:	07/25/1994	
Title:	METHOD AND COMPOSITION FOR ENERGY SOURCE SUPPLEMENTATION DURING EXERCISE			
Status:	Expired for non-payment on: 05/30/2007			Entity: Small
Window Opens:	05/30/2006	Surcharge Date:	12/01/2006	Expiration: 05/30/2007
Fee Amt Due:	\$0.00	Surchg Amt Due:	\$0.00	Total Amt Due: \$0.00
Fee Code:				
Surcharge Fee Code:				
Most recent events (up to 7):	05/30/2007 12/13/2006 10/28/2002 10/18/2002 02/11/1999 02/11/1999 12/22/1998	Patent Expired for Failure to Pay Maintenance Fees. Maintenance Fee Reminder Mailed. Payor Number Assigned. Payment of Maintenance Fee, 8th Yr, Small Entity. Payment of Maintenance Fee, 4th Yr, Small Entity. Surcharge for late Payment, Small Entity. Maintenance Fee Reminder Mailed. — End of Maintenance History —		
Address for fee purposes:	PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102			
<p><b>NOTE:</b> All USPTO fees are subject to change. If you are making a payment by mail or fax, please visit this <a href="#">link</a> or contact the Maintenance Fee Branch (571-272-6500) to confirm the amount due on the date payment is to be made. A maintenance fee payment can be timely made using the certificate of mailing or transmission procedure set forth in 37 CFR 1.8.</p>				

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Massie, Karyn F.

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**From:** Massie, Karyn F.  
**Sent:** Friday, May 30, 2003 9:18 AM  
**To:** 'gbrooks@socrates.Berkeley.EDU'; Wetherell, John R.  
**Cc:** Bedgood, Robert M.; 'robert bedgood'  
**Subject:** Filing Deadline of June 10, 2003

Dear Dr. Brooks:

Further to our conversation of May 20, 2003, I am confirming your instructions that you do not want us to continue prosecuting the "Glycerol-lactate esters for use as an energy supplement during exercise and recovery" patent application with serial number 10/158,584 on your behalf. During our conversation you indicated written instructions advising us not to proceed were in draft format and would be arriving shortly. I have not received correspondence from you regarding the response due on June 10, 2003. Please be advised, without your specific instructions to continue prosecuting this matter including responding to the June 10, 2003 deadline, we will NOT prepare a response. The June 10, 2003 is the final date for responding. There are no extensions of time beyond that date. Without your response submitted by that date, the application will go abandoned.

If you have any questions regarding this matter please do not hesitate to contact me.

*Karyn F. Massie*  
Pillsbury Winthrop  
11682 El Camino Real, Suite 200  
San Diego, CA 92130-1593  
Direct Line: (858)509-4018  
kmassie@pillsburywinthrop.com

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<b>Patent Bibliographic Data</b>		<b>07/16/2010 11:47 AM</b>					
<b>Patent Number:</b>	6743821	<b>Application Number:</b>		10158584			
<b>Issue Date:</b>	06/01/2004	<b>Filing Date:</b>		05/30/2002			
<b>Title:</b>	GLYCEROL-LACTATE ESTERS FOR USE AS AN ENERGY SUPPLEMENT DURING EXERCISE						
<b>Status:</b>	8th year fee window opens: 06/01/2011		<b>Entity:</b>	Small			
<b>Window Opens:</b>	06/01/2011	<b>Surcharge Date:</b>	12/02/2011	<b>Expiration:</b>			
<b>Fee Amt Due:</b>	Window not open	<b>Surcharge Amt Due:</b>	Window not open	<b>Total Amt Due:</b>			
<b>Fee Code:</b>	2552	MAINTENANCE FEE DUE AT 7.5 YEARS					
<b>Surcharge Fee Code:</b>							
<b>Most recent events (up to 7):</b>	07/24/2007	Payment of Maintenance Fee, 4th Yr, Small Entity. --- End of Maintenance History ---					
<b>Address for fee purposes:</b>	GEORGE A. BROOKS 1415 RICHMOND STREET EL CERRITO, CA 94530						
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